IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL WRIT PETITION NO.1103 OF 2004

Karim Aziz Chabukswar .... Petitioner
Vs.
The State of Maharashtra .... Respondent

Ms Rachita Dhuru for the Petitioner.

Shri D.S. Mhaispurkar, A.P.P., for the Respondent.

CORAM: R.M.S. KHANDEPARKAR &
P.V. KAKADE, JJ.

DATED: FEBRUARY 25, 2005

P.C:

Heard. Perused the records. The application for furlough leave has been rejected merely on the ground that on the earlier occasion the petitioner had surrendered five days beyond the period within which he was required to surrender. Undisputedly, the police report disclose that the wife of the petitioner is suffering from kidney stone and is required to be operated. The report merely disclose that the brother of the petitioner can take care of the petitioner's wife at the time of the operation. We do not find the same to be a justifiable ground for rejection of the request of the petitioner for grant of the furlough leave. Once it is not in dispute that the wife of the petitioner is required to undergo operation, and there being no

adverse report against the petitioner and the petitioner having surrendered five days late for justifiable reason on the earlier occasion, certainly, the order rejecting the furlough leave cannot be sustained and on the same ground the rejection of the application for parole also cannot be sustained. In the circumstances, the orders rejecting the furlough leave as well as the parole leave are hereby set aside and the matter is remanded to the concerned authorities to dispose of the applications in accordance with the provisions of law, within a period of three weeks from today.

The respondent shall communicate this order to the concerned authorities as well as the petitioner within one week. The petition accordingly stands disposed of.

(R.M.S.Khandeparkar, J.)

(P.V.Kakade, J.)